

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Wireline Competition Bureau Seeks Comment	)	
on Areas Shown as Unserved on the National	)	WC Docket No. 10-90
Broadband Map for Connect America Phase I	)	
Incremental Support	)	
	)	

To:   The Commission  
      Chief, Wireline Competition Bureau

**COMMENTS OF  
MARLON K. SCHAFER DBA ODESSA OFFICE EQUIPMENT**

Marlon K. Schafer dba Odessa Office Equipment (“OOE”), pursuant to Sections 1.415 and 1.419 of the Commission’s Rules, hereby submits Comments in response to the Public Notices issued in this proceeding, which seek comment on a list of “potentially unserved” census blocks in price cap areas for purposes of Connect America Fund (“CAF”) Phase I incremental support.<sup>1</sup> OOE has reviewed the Public Notices and the map issued by the Wireline Competition Bureau (“Bureau”) and urges the Bureau to update its list of “potentially unserved” census blocks, and its map of unserved fixed broadband, to

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<sup>1</sup> See *Wireline Competition Bureau Seeks Comment on Areas Shown as Unserved on the National Broadband Map for Connect America Phase I Incremental Support*, Public Notice, WC Docket No. 10-90, DA 12-1961 (Wireline Comp. Bur., Dec. 5, 2012); see also *Wireline Competition Bureau Updates the List of Potentially Unserved Census Blocks in Price Cap Areas and Extends the Deadline for Comment on the List*, Public Notice, WC Docket No. 10-90, DA 12-2001 (Wireline Comp. Bureau, Dec. 10, 2012) (“*Public Notices*”).

reflect more current data compiled by the state of Washington for the areas that OOE serves.

### **Background**

OOE is a fixed wireless Internet service provider based in Odessa, Washington. The company, which has been in business since 1995, is a leader in the fixed wireless broadband industry and has provided wireless services since 2000. OOE serves customers with fixed broadband in portions of the following counties in Washington state: Lincoln, Grant, Adams, Douglas, Ferry and Stevens. As set forth in National Broadband Map data, OOE's coverage area comprises more than 84,000 people<sup>2</sup> and features advertised speeds exceeding 3 Mbps.<sup>3</sup>

A map of OOE's coverage area, as depicted on the National Broadband Map and reflecting service data as of December 31, 2011, appears at Attachment A. As part of efforts to collect, analyze and update data about its broadband coverage, OOE regularly reports mapping data to the Washington state mapping authority for purposes of the State Broadband Initiative ("SBI") data submissions and the National Broadband Map. In fact, OOE has provided the Washington state mapping authority with updated coverage data that is more current than the Bureau's census block list, and OOE is in the process of compiling broadband coverage data for the current round of state level mapping. OOE understands that the National Broadband Map will be updated within the next few weeks to incorporate data submitted in 2012.

The Commission's transitional CAF Phase I support mechanism would provide up to \$300 million in subsidies to promote broadband deployment to "unserved" areas, as

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<sup>2</sup> See <http://www.broadbandmap.gov/about-provider/odessa-office-equipment/nationwide/> (visited January 8, 2012).

<sup>3</sup> *Id.*

designated on the National Broadband Map, which in turn reflects data collected by state mapping authorities.<sup>4</sup> On November 19, 2012, the Commission directed the Bureau “to publish a list of eligible census blocks shown on the current version of the National Broadband Map as unserved by fixed terrestrial broadband with an advertised speed of 3 Mbps downstream and 768 kbps upstream.”<sup>5</sup> The Public Notices seek comment on the Bureau’s list of “potentially unserved” census blocks that potentially would be eligible for CAF Phase I incremental support. The Bureau links to a map that identifies areas “as unserved by fixed broadband with advertised speeds of 3 Mbps downstream and 768 kbps upstream, using the current version of the National Broadband Map and data as of December 31, 2011.”<sup>6</sup> The Bureau has been directed to seek comment on areas where coverage is either overstated or understated.<sup>7</sup>

As described below, based on the Bureau’s map of “Unserved Fixed Broadband” in eastern Washington state,<sup>8</sup> OOE urges the Bureau to update its list of “potentially unserved” census blocks to include data given by OOE in 2012 to state mapping authorities.

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<sup>4</sup> Eligible price cap carriers accepted approximately \$115 million of these funds, and the Commission is accepting public comment on alternative proposals for distributing this funding. *See Connect America Fund*, Further Notice of Proposed Rulemaking, WC Docket No. 10-90, FCC 12-138 (rel. Nov. 19, 2012) at ¶¶15, 17-35.

<sup>5</sup> *Id.*

<sup>6</sup> *See* <http://www.fcc.gov/maps/unserved-fixed-broadband> (visited Jan. 8, 2013). As others have noted, the data are expected to be superseded soon by updates to the National Broadband Map issued by the National Telecommunications and Information Administration. *See Emergency Petition for Reconsideration or, Alternatively, For an Extension of Time* filed by Wireless Internet Service Providers Association, WC Docket No. 10-90 (filed Dec. 21, 2012).

<sup>7</sup> The Bureau also seeks comment on areas listed as unserved on the map that are served through the Broadband Initiatives Program or the Broadband Technology Opportunities Program. OOE has not received awards under either program.

<sup>8</sup> *See* Attachment B.

## Discussion

OOE submits that the Commission's dataset, as described in the Public Notices, is based on December 31, 2011 data that understate the availability of broadband services in census blocks served by OOE — services that satisfy the Commission's performance metrics for speed, latency and capacity.<sup>9</sup> These OOE customers receive fixed wireless broadband service with advertised speeds of at least 3 Mbps downstream and 768 kbps upstream. The data should be updated to reflect changes that OOE reported to state authorities subsequent to December 31, 2011.

Data published by Washington state mapping authority demonstrate the availability of broadband services with download speeds of at least 3 Mbps in many areas of Washington state. Using data as of June 30, 2012, the Washington State broadband mapping authority issued a map of Washington state in October 2012 that shows extensive broadband coverage, both wireline and wireless, across counties where OOE provides service: Lincoln, Grant, Adams and Stevens.<sup>10</sup> While the Commission's data show certain areas as "partially unavailable" or "unavailable" in these counties, the Washington state data depict more extensive coverage of these counties. Given that the Washington state data are more current and are expected to be incorporated into the

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<sup>9</sup> The Commission has stated that for CAF Phase I and Phase II, the minimum broadband speed benchmark will be 4 Mbps downstream and 1 Mbps upstream, with sufficiently low latency to enable use of real-time applications such as Voice over Internet Protocol and with usage limits (if any) to be "reasonably comparable to usage limits for comparable broadband offerings in urban areas." *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; and Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("*USF/ICC Transformation Order*") at ¶¶90-100.

<sup>10</sup> See Attachment C. While the mapping contractor designates the map as a "draft," it has been published on the Washington broadband mapping website and appears to be current source of data for the information. See [http://wabroadbandmapping.org/PDF/Statewide/WABroadband\\_3mbpsDownload.pdf](http://wabroadbandmapping.org/PDF/Statewide/WABroadband_3mbpsDownload.pdf) (visited January 9, 2013).

National Broadband Map in a few short weeks, the Bureau should update its dataset with the new state data prior to making decisions on CAF Phase I eligibility or funding.

Further, the Bureau's map data do not account for potential availability of broadband in households in areas predicted to receive OOE service based on fixed wireless technical parameters of different sites. In general, OOE can make broadband service available to end users within these census blocks within a brief period without an extraordinary commitment of resources.<sup>11</sup> To the extent that the Bureau's list of "unserved" or "partially served" census blocks includes census blocks within such service areas, the census blocks should be deemed "served" for purposes of CAF Phase I.

### **Conclusion**

For the reasons set forth herein, OOE requests that the Bureau revise its list of "potentially unserved" census blocks to reflect the changes in broadband availability set forth in the Washington state mapping data for the areas served by OOE. As noted above, the Washington state dataset is more current than the dataset used by the Bureau in this proceeding. OOE submits that the state data more accurately reflect the current availability of broadband services in eastern Washington state in the counties served by OOE. In 2012, OOE relayed its updated coverage data to the state mapping authorities. The Bureau therefore should not rely on the current published versions of the National

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<sup>11</sup> See *State Broadband Data and Development Grant Program*, 74 Fed. Reg. 32545, 32548 (defining broadband service as "available" to an end user address for purposes of the Recovery Act and the National Broadband Map if "a broadband service provider does, or could, within a typical service interval (7 to 10 business days) without an extraordinary commitment of resources, provision two-way data transmission to and from the Internet with advertised speeds of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream to the end user at the address.").

Broadband Map in making future CAF Phase I funding or eligibility decisions in the census blocks that OOE serves.

Respectfully submitted,

January 9, 2013

**Marlon K. Schafer dba  
Odessa Office Equipment**

By: */s/ Jonathan E. Allen*  
Jonathan E. Allen  
Rini O'Neil, PC  
1200 New Hampshire Avenue, Suite 800  
Washington, DC 20036  
(202) 955-3933  
[jallen@telecommediatechlaw.com](mailto:jallen@telecommediatechlaw.com)  
*Counsel to Marlon K. Schafer dba  
Odessa Office Equipment*

**Attachment A**  
**Odessa Office Equipment Coverage Area**  
**National Broadband Map**  
**Data as of December 31, 2011**

## Broadband Provider Service Area

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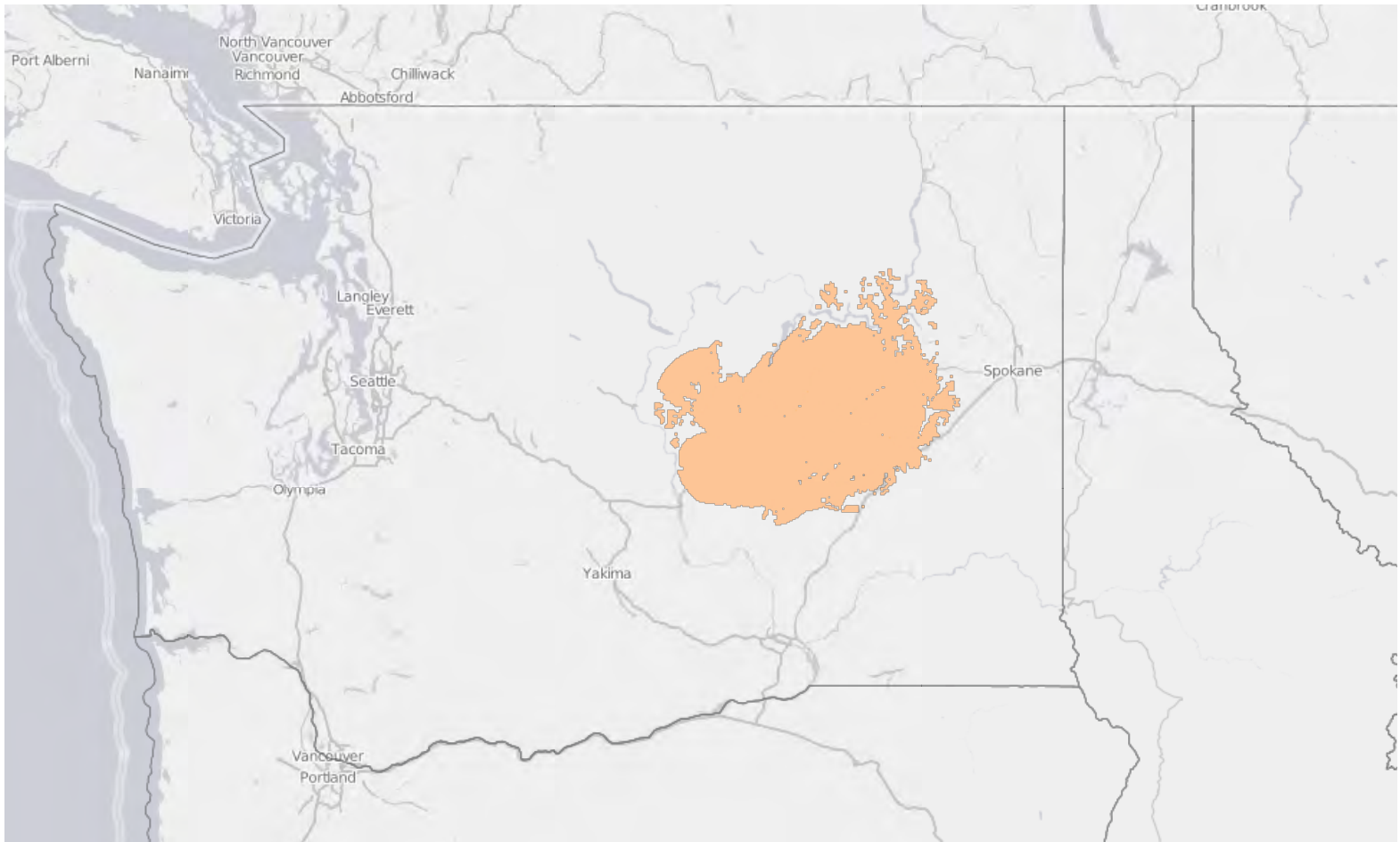
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Odessa Office Equipment

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The National Broadband Map is a tool to search, analyze and map broadband availability across the United States. Created and maintained by the NTIA, in collaboration with the FCC, and in partnership with 50 states, five territories and the District of Columbia.

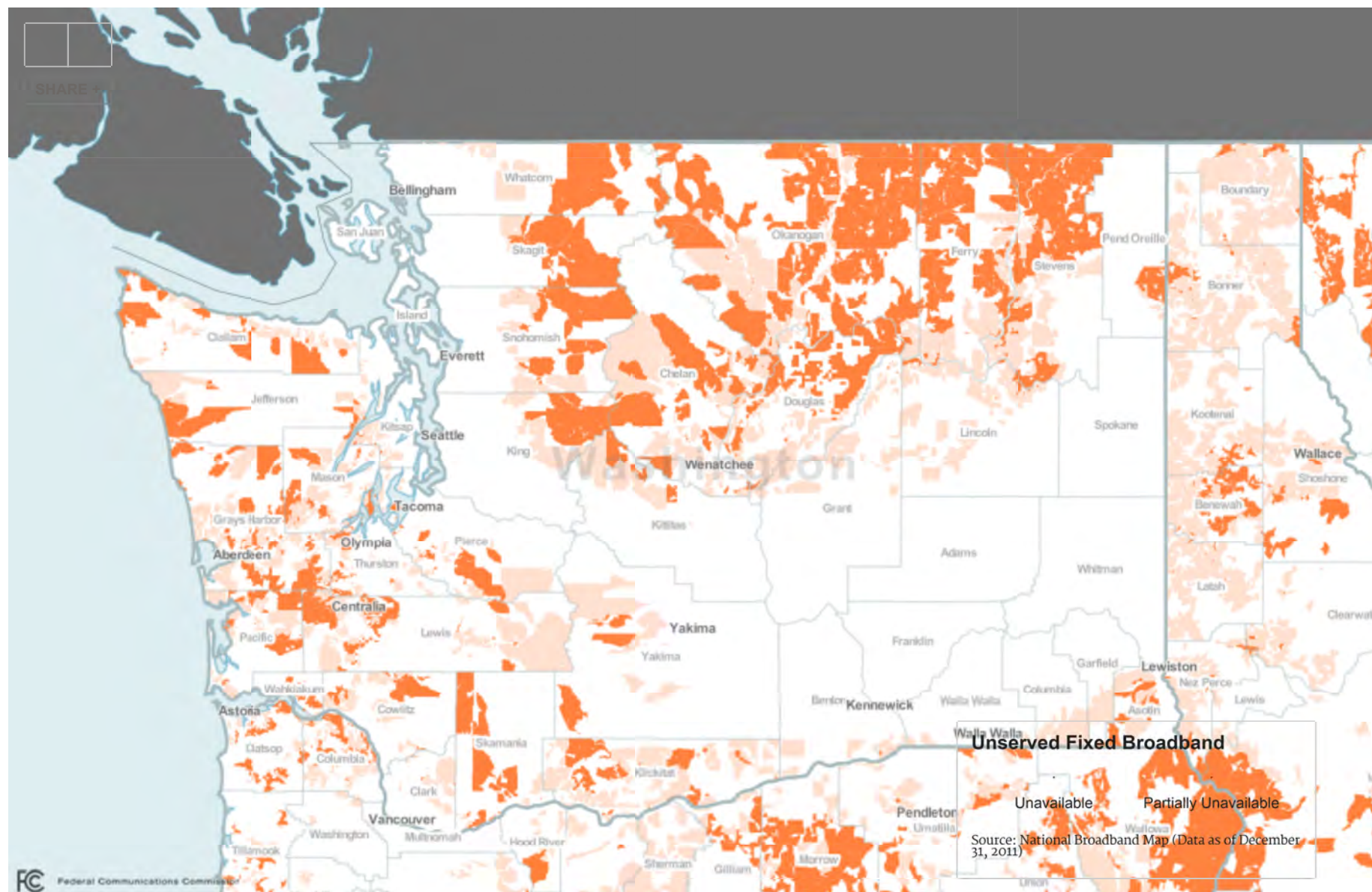




**Attachment B**  
**Bureau Map of “Unserved Fixed Broadband”**  
**in Washington State**

**fixed** by Federal Communications Commission

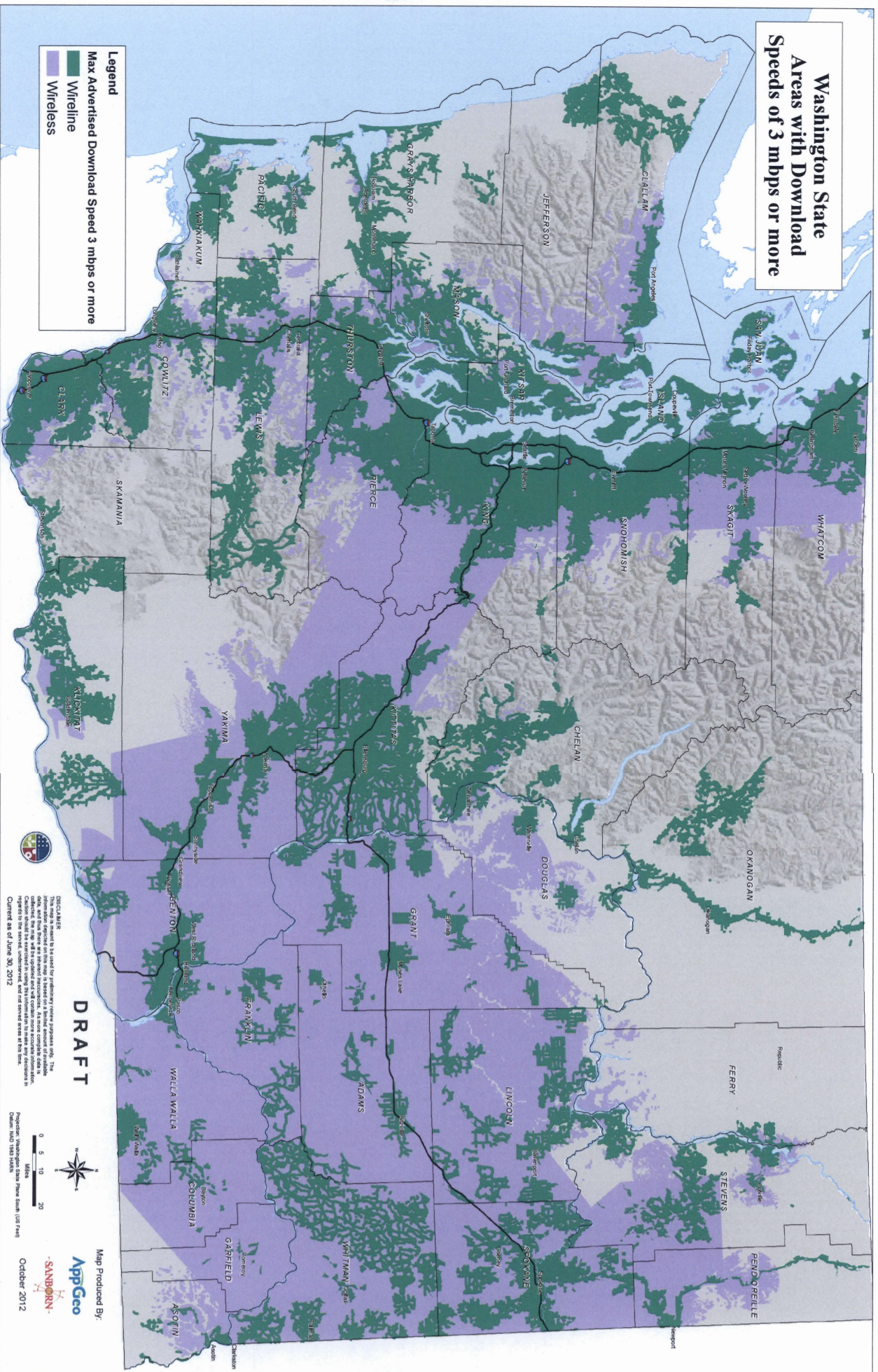
This map was created to fulfill the requirements of the Commission's November 19 Further Notice of Proposed Rulemaking. It shows areas that are...



**Attachment C**  
**State Map of Washington State Areas**  
**With Download Speeds of 3 mbps or More**



# Washington State Areas with Download Speeds of 3 mbps or more



**Attachment**  
**Declaration of Marlon Schafer**

**Declaration of Marlon Schafer**

I, Marlon Schafer hereby declare under penalty of perjury as follows:

This Declaration is submitted in support of my company's Comments in response to the Public Notices issued in this proceeding, which seek comment on a list of "potentially unserved" census blocks in price cap areas for purposes of Connect America Fund Phase I incremental support. I have read the Comments; all facts set forth therein which are not already subject to official notice are true and correct to the best of my knowledge and belief.

Executed on January 9, 2013



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Marlon Schafer



**CERTIFICATE OF SERVICE**

I, Jonathan Allen, an attorney with Rini O'Neil, PC, hereby certify that I have caused copies of the foregoing "Comments of Marlon K. Schafer dba Odessa Office Equipment" to be sent by email this 9th day of January, 2013, to:

Ryan J. Yates  
Telecommunications Access Policy Division, Wireline Competition Bureau,  
Federal Communications Commission  
445 12th Street, SW, Room 5-B441A  
Washington, DC 20554  
e-mail: Ryan.Yates@fcc.gov

Charles Tyler  
Telecommunications Access Policy Division  
Federal Communications Commission Wireline Competition Bureau  
445 12th Street, SW, Room 5-A452  
Washington, DC 20554  
e-mail: Charles.Tyler@fcc.gov.

/s/ Jonathan E. Allen  
Jonathan E. Allen